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In the Matter of)	
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Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	
)	

The Universal Service Administrative Company (USAC), in its capacity as Administrator of the federal Universal Service Support Mechanisms, submits this Petition for Limited Waiver of 47 C.F.R. §54.717(f) Regarding Audit Report Deadline. USAC is the private, not-for-profit corporation that, pursuant to 47 C.F.R. Part 54, administers the universal service support mechanisms for high-cost areas, low-income consumers, rural health care providers, schools and libraries, and the billing, collecting, and disbursing of all universal service support. USAC files this petition only as it relates to an administrative matter concerning the Universal Service Support Mechanisms. *See* 47 C.F.R. § 54.702(d).

As described in detail below, because circumstances outside of USAC’s control have made it impossible for USAC’s independent auditor to submit a draft audit report by the regulatory deadline, USAC respectfully requests a limited waiver of the deadline

found at 47 C.F.R. §54.717(f). USAC seeks a 45-day extension of time for the independent audit firm to submit its draft report to the Commission.

Section 54.717 of the Commission's rules, 47 C.F.R. § 54.717, governs the annual independent audit of the Administrator of the Universal Service Support Mechanisms. Section 54.717 spells out a detailed and extensive process governing the annual independent audit of USAC. Section 54.717 requires the Commission to exercise extensive oversight of USAC's annual audit process. Among other things, USAC must submit its proposed audit plan to the Wireline Competition Bureau (WCB) for review and approval, WCB staff must comment on and approve the proposed audit plan within certain time frames, the audit firm retained by USAC must report its findings directly to WCB staff, and WCB staff must review and approve the findings of USAC's independent auditor. *See* 47 C.F.R. § 54.717(a)-(e). Section 54.717(f) requires USAC's independent auditor to file a draft audit with the Commission within 105 days of the close of the audit period.¹ Because USAC's fiscal year ends on December 31, the annual deadline for submission of the draft 2004 audit report is April 15, 2005. Subsequent deadlines for review and comment flow from this date. *See* 47 C.F.R. §54.717(g)-(j).

USAC respectfully requests a limited 45-day waiver of this year's audit deadline as established by 47 C.F.R. §54.717(f). USAC specifically requests a 45-day extension of the deadline for USAC's independent auditor to submit its draft 2004 annual audit report to WCB. The draft audit report deadline for this year would thus be on or before May 31, 2005. The basis for USAC's request is that the scope of the 2004 annual audit remained uncertain until very recently and a brief extension is required in order to allow

¹ *See Federal-State Board on Universal Service*, Order, CC Docket 96-45, FCC 03-59 (rel. March 26, 2003).

sufficient time for the independent auditor to submit a complete and accurate draft report. The additional time is necessary because of the recent approval by WCB of the agreed upon procedures (AUP) engagement for the 2004 independent audit, and the significant revision and expansion of the scope of the AUP engagement as compared to prior years.

The Commission may waive its rules for good cause shown. *See* 47 C.F.R. § 1.3. The circumstances set forth in this petition amply demonstrate good cause. Moreover, the limited waiver by USAC will not prejudice the Commission or any USAC stakeholder.

ARGUMENT

A critical aspect of WCB's oversight of USAC is the annual audit process. Each year, pursuant to 47 C.F.R. § 54.717(a)-(c), the WCB must approve the AUP engagement plan, which establishes the procedures to be followed by USAC's independent auditor in conducting the annual audit of USAC. WCB staff is intensely involved in the development of the audit program prior to approving it. Since USAC's inception, the resulting audit programs have been extremely thorough and have been of vital importance to both the Commission and USAC in assessing USAC's internal controls and the appropriateness of its administrative practices and procedures.

In past years, USAC and WCB have been able to provide USAC's independent auditor a finalized and approved AUP engagement several months before the end of the audit year. This year, however, USAC received final approval of the AUP engagement from WCB much later than in previous years. WCB approved the final AUP engagement

plan on March 14, 2005,² over two months after the end of the audit year, thus leaving only 32 days for USAC's independent auditor to complete the final draft report for submission to WCB as required by regulation.

In addition to the far shorter-than-anticipated time to complete the 2004 audit than in prior years, the new audit procedures finalized and approved by WCB on March 14, 2005, revise and significantly expand the scope of the annual audit for 2004. In past years, the AUP engagement audit program typically contained extensive procedures to evaluate USAC's compliance with the structural requirements of the Commission's rules; USAC's administration of the billing and collections process (including the accuracy of telecommunications carrier contributions to the Universal Service Fund (USF)); USAC controls and procedures designed to ensure security of its facilities and information systems; and USAC's administration of each of the four USF mechanisms (*i.e.*, high cost, schools and libraries, low income, and rural healthcare), including the accuracy of disbursement and the eligibility of beneficiaries to participate in the USF programs.³ Thus, previous Part 54 audits have reflected a detailed examination of USAC's procedures and processes.

As part of its continuing duty to oversee USF administration, WCB has modified the AUP engagement for 2004 to include new areas of evaluation. These new areas include:

² See Electronic Mail from William A. Hill, Jr., Staff Auditor, WCB Telecommunications Access Policy Division, to Wayne Scott, Vice-President of Internal Audit, USAC (March 14, 2005) (attaching "final version of the AUP work program" and associated procedures template for USAC's internal auditor).

³ See, *e.g.*, Deloitte & Touche LLP, INDEPENDENT ACCOUNTANTS' REPORT ON APPLYING AGREED-UPON PROCEDURES, Exhibit XXXXV (June 23, 2004).

(a) New review of procedures concerning submission of data by telecommunications providers to the National Exchange Carrier Association (NECA) pursuant to Part 36 of the Commission's regulations. (USAC does not have authority to collect such data nor does it have the authority to create internal controls to ensure the integrity of the data that is collected by NECA, a regulatory anomaly that USAC has routinely brought to WCB's attention, most recently in March 2005.)⁴ Until this year, review of the Part 36 data collection process has not been part of the USAC annual audit required by Part 54. For the 2004 audit, however, WCB has directed the review of the Part 36 data collection procedures for the first time.⁵ The inclusion of requirements related to Part 36 of the Commission's rules represents a significant expansion of the work required by USAC to provide the information to the independent auditors and for the auditors to complete the procedures required in order to prepare a draft report⁶;

(b) Expanded scrutiny of USAC's procedures for administering the USF program, including its processing of applications, receipt of data (including the accuracy the Part 36 data discussed above), its relationships with key contractors, its website and outreach efforts, and more extensive review of its implementation of Commission decisions during the audit period;

(c) Detailed review of USAC's procedures for USF beneficiary audit resolution and follow-up, including review of USAC's recovery of funds as recommended in

⁴ See Letter from Lisa M. Zaina, Chief Executive Officer (CEO), USAC, to Jeffrey Carlisle, Chief, WCB (March 14, 2005) (pointing out anomaly and attaching December 10, 1999, letter from D. Scott Barash, Vice-President and General Counsel, USAC, to Irene Flannery, Chief, Accounting Policy Division, pointing out same).

⁵ See Letter from Jeffrey Carlisle, Chief, WCB, to Lisa M. Zaina, CEO, USAC (March 11, 2005).

⁶ USAC advised WCB on March 14, 2005, that USAC's internal auditors had informed USAC that the audit could not likely be completed by April 15, 2005 if the Part 36 data was included in the AUP review. See *id.* at 2.

beneficiary audits and USAC's implementation of corrective action as a result of audits conducted by the Commission's Office of Inspector General, independent auditors, or USAC's Internal Audit Division;

(d) Review of new aspects of USAC's administration of the billing and collections process, including implementation of the Commission's Debt Collection Improvement Act requirements;

(e) Expanded review of USAC's administration of the disbursement process;

(f) Additional review of USAC's procedures pertaining to its corporate governance,

(g) Assessment of new requirements regarding USAC's continuity of operations plans and procedures;

(h) Additional scrutiny of USAC's administrative expenses; and,

(i) Review of USAC's implementation of Statement on Auditing Standards 99, Consideration of Fraud in a Financial Statement.⁷

USAC welcomes all aspects of the Commission's oversight and, as in prior years, has worked closely with WCB staff and USAC's independent audit firm to develop the AUP review plan and to provide all information required by WCB and the auditors in a timely manner. The combination of the revised and expanded audit procedures and the far shorter-than-anticipated time to complete this year's audit, however, have made it impossible for USAC and its independent audit firm to meet the April 15, 2005 deadline for submission of the draft annual audit report to WCB. Our experience demonstrates that an extension of the deadline will enable its independent auditor to prepare a more

⁷ See Letter from Richard Lerner, Associate Chief, WCB, to Wayne Scott, Vice-President of Internal Audit, USAC 2 (September 30, 2004).

comprehensive draft audit report and will not prejudice the Commission or any USAC stakeholder.⁸ The Commission has previously recognized the importance of providing sufficient time for USAC's independent auditor to complete the final draft audit report.⁹

The circumstances set forth above amply demonstrate good cause for the limited waiver of the deadline established by Section 54.717(f) sought by USAC. The timetable for comments and responses to be provided after the initial draft audit report is delivered to the Commission set forth in 47 C.F.R. 54.317(g)-(j) would remain unchanged.

⁸ See *Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, 14 FCC Rcd 4350, DA 01-509 ¶ 6 (Acct. Pol. Div. 1999); *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 4715 (Com. Car. Bur. 2001); *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order, CC Docket No. 96-45, 17 FCC Rcd 3698, DA 02-482 ¶ 7 (Com. Car. Bur. 2002); *Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, DA 03-614, ¶ 6 (Wire. Comp. Bur. rel. Feb. 28, 2003) (each Order recognizing importance of providing independent auditor adequate time to provide a complete and accurate report and finding good cause and no harm in granting a 45-day extension of the Section 54.717(f) report deadline).

⁹ See *id.*

CONCLUSION

For the reasons set forth above, USAC respectfully requests a limited waiver of 47 C.F.R. § 54.717(f) to enable USAC's independent auditor to submit a draft 2004 audit report on or before May 31, 2005.

Respectfully submitted,

UNIVERSAL SERVICE
ADMINISTRATIVE COMPANY

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